



## Key to the Northern Long-Eared Bat 4(d) Rule for Non-Federal Activities

*A separate key is available for Federal Actions*

This key will help you determine if your planned activity may cause prohibited take of northern long-eared bats as defined in the 4(d) rule under the Endangered Species Act and if a permit may be necessary. For more information about the northern long-eared bat and 4(d) rule go to

[www.fws.gov/midwest/endangered/nleb](http://www.fws.gov/midwest/endangered/nleb).

1. Will your activity **purposefully take** (see Definitions below) northern long-eared bats? For example, are you removing bats from a human structure or capturing bats for research?

**Yes, my activity includes purposefully taking northern long-eared bats.**

- ***Removing bats from human structures is not prohibited***; if you are removing bats from a human structure, you may proceed without a permit and you do not need to contact the U.S. Fish and Wildlife Service.
- ***Research that involves handling bats does require a permit*** after May 4, 2016; if you are conducting research that includes capturing and handling northern long-eared bats, you should contact the U.S. Fish and Wildlife Service to apply for a permit. [www.fws.gov/endangered/regions](http://www.fws.gov/endangered/regions)
- ***Other purposeful take*** (see Definitions below) of northern long-eared bats is prohibited.

**No, my activity does not include purposefully taking northern long-eared bats.**

Continue to #2.

2. Is your activity located **outside the White-nose Syndrome Zone**? For the current White-nose Syndrome Zone map, please see

[www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf](http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf)

**Yes, my activity is located outside the white-nose syndrome zone.**

Incidental take (see Definitions below) of northern long-eared bats is not prohibited in areas outside the White-nose Syndrome Zone. You may proceed with your activity, you do not need a permit and you do not need to contact the U.S. Fish and Wildlife Service.

**No, my activity is located inside the white-nose syndrome zone.**

Continue to #3

3. Will your activity take place **within a cave or mine where northern long-eared bats hibernate** (i.e., hibernaculum) **or could it alter the entrance or the environment (physical or other alteration) of a hibernaculum?**

**Yes, my activity will take place within a northern long-eared bat hibernaculum or it could alter the entrance or the environment (physical or other alteration) of a hibernaculum.**

All take (see Definitions below) of northern long-eared bats within hibernacula is prohibited, including actions that may change the nature of the hibernaculum's environment or entrance to it, even when the bats are not present. If your activity includes work in a hibernaculum or it could alter its entrance or environment, please contact the Service's Ecological Services Field Office located nearest the project area. To find contact information for the Ecological Services Field Offices, please see [www.fws.gov/offices](http://www.fws.gov/offices).

**No, my activity will not take place within a northern long-eared bat hibernaculum or alter its entrance or environment.**

Continue to #4

4. Will your action involve **tree removal** (see definition below)?

**No, my activity does not include tree removal.**

Incidental take (see Definitions below) from activities that do not involve tree removal and do not take place within hibernacula or would not alter the hibernaculum's entrance or environment (see Question #3), are not prohibited, and a permit is not necessary. You may proceed with your activity, you do not need a permit and you do not need to contact the U.S. Fish and Wildlife Service.

Yes - continue to #5

5. Is your activity the **removal of hazardous trees** for protection of human life or property?

**Yes, my activity is removing hazardous trees.**

Incidental take (see Definitions below) of northern long-eared bats as a result of hazardous tree removal to protect human life or property is not prohibited. You may proceed with your activity, you do not need a permit and you do not need to contact the U.S. Fish and Wildlife Service.

**No, my activity is not removing hazardous trees.**

Continue to #6

6. Will your tree removal activities include one or both of the following: **1) removing a northern long-eared bat known occupied maternity roost tree or any trees within 150 feet of a known occupied maternity roost tree from June 1 through July 31; or 2) removing any trees within 0.25 miles of a northern long-eared bat hibernaculum at any time of year?**

**No**

Incidental take (see Definitions below) from tree removal activities is not prohibited unless it results from removing a known occupied maternity roost tree or from tree removal activities within 150 feet of a known occupied maternity roost tree from June 1 through July 31 or results from tree removal activities within 0.25 mile of a hibernaculum at any time. You may proceed with your activity, you do not need a permit and you do not need to contact the U.S. Fish and Wildlife Service.

**Yes**

Incidental take (see Definitions below) of northern long-eared bats is prohibited if it occurs as a result of removing a known occupied maternity roost tree or removing trees within 150 feet of a known occupied maternity roost tree during the pup season from June 1 through July 31 or as a result of removing trees from within 0.25 mile of a hibernaculum at any time of year. This does not mean that you cannot conduct your activity. Please contact your nearest Ecological Services Field Office and we will work with you to determine if your activity can proceed without harming or killing northern long-eared bats or if you need to apply for a permit. To find contact information for the Ecological Services Field Offices, please see [www.fws.gov/offices](http://www.fws.gov/offices)

**How do I know if there is a maternity roost tree or hibernacula on my property or in my project area?**

We acknowledge that it can be difficult to determine if a maternity roost tree or a hibernaculum is on your property or in your project area. Location information for both resources is generally kept in state Natural Heritage Inventory databases – the availability of this data varies state-by-state. Many states provide online access to their data, either directly by providing maps or by providing the opportunity to make a data request. In some cases, to protect those resources, access to the information may be limited. Links to state Natural Heritage Inventory databases are available at [www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html](http://www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html).

When looking for information on the presence of maternity roost trees or hibernacula within your project area, our expectation is that a project proponent will complete due diligence to determine available data. If information is not available, document your attempt to find the information and move forward with your project.

We do not require private landowners to conduct surveys on their lands. However, surveys can reduce uncertainties and facilitate project planning. Recommended survey methods are available at [www.fws.gov/midwest/endangered/mammals/nleb](http://www.fws.gov/midwest/endangered/mammals/nleb).

## **Definitions**

**“Incidental take”** is defined by the Endangered Species Act as take that is "incidental to, and not the purpose of, the carrying out of an otherwise lawful activity." For example, harvesting trees can kill bats that are roosting in the trees, but the purpose of the activity is not to kill bats.

**“Known hibernacula”** are defined as locations where one or more northern long-eared bats have been detected during hibernation or at the entrance during fall swarming or spring emergence. Given the challenges of surveying for northern long-eared bats in the winter, any hibernacula with northern long-eared bats observed at least once, will continue to be considered “known hibernacula” as long as the hibernacula remains suitable for northern long-eared bat.

**“Known occupied maternity roost trees”** is defined in the 4(d) rule as trees that have had female northern long-eared bats or juvenile bats tracked to them or the presence of female or juvenile bats is known as a result of other methods. Once documented, northern-long eared bats are known to continue to use the same roosting areas. Therefore, a tree will be considered to be a “known occupied maternity roost” as long as the tree and surrounding habitat remain suitable for northern long-eared bat. The incidental take prohibition for known occupied maternity roosts trees applies only during the pup season (June 1 through July 31).

**“Purposeful take”** is when the reason for the activity or action is to conduct some form of take. For instance, conducting a research project that includes collecting and putting bands on bats is a form of purposeful take. Intentionally killing or harming bats is also purposeful take and is prohibited.

**“Take”** is defined by the ESA as ‘to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect’ any endangered species. Purposeful take is when the reason for the activity or action is to conduct some form of take. For instance, conducting a research project that includes collecting and putting bands on bats is a form of purposeful take.

**“Tree removal”** is defined in the 4(d) rule as cutting down, harvesting, destroying, trimming, or manipulating in any other way the trees, saplings, snags, or any other form of woody vegetation likely to be used by northern long-eared bats.